federal register

Tuesday
March 11, 1980

Part IV

Department of Agriculture

Animal and Plant Health Inspection Service

Animal Welfare; Humane Handling, Care, Treatment, and Transportation of Dogs and Cats; Proposed Revision of Standards

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

Animal Welfare; Proposed Revision of Standards for the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document contains proposed revisions of the transportation standards governing dogs and cats. The revisions would increase the quantity of ventilation openings in primary enclosures used to transport live dogs and cats in commerce during the period April 1 through September 30. These revisions of the transportation standards are being proposed as a result of various petitions for reconsideration which were received by this Department and which made new facts and evidence available which appear to warrant such action.

DATE: Comments on or before April 25, 1980.

ADDRESSES: Comments to Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments available for inspection at the above address during regular hours of business (8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.127(b)). Comments and information regarding ventilation received pursuant to the June 12, 1979, notice in the **Federal Register** (44 FR 33801) shall be given consideration and need not be repeated.

FOR FURTHER INFORMATION CONTACT: Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8271.

SUPPLEMENTARY INFORMATION: As required by the Animal Welfare Act Amendments of 1976 to assure the humane care, treatment, and transportation of certain warmblooded animals, the Department published standards for the transporation of such animals on June 21, 1977 (42 FR 31556–31571) and May 16, 1978 (43 FR 21160–21167). The ventilation requirements of these standards state that primary enclosures used to transport warmblooded animals subject to the Animal Welfare Act shall be constructed in such a manner that there are ventilation openings located on two opposite walls which provide at least 16 percent ventilation per wall, or there are ventilation openings located on all four walls which provide at least 8 percent ventilation per wall, or there are ventilation openings located on three walls which provide at least 8 percent ventilation on two opposite walls and at least 50 percent ventilation on the third wall. No consideration is made for ventilation openings in the top of the animal shipping containers since stacking of such containers during transportation is common practice and would effectively block such openings ro ventilation purposes.

During fiscal year 1979, the Department was petitioned by the National Committee on Animal Transport, the Society for Animal Protection Legislation, the American Society of the Prevention of Cruelty to Animals, and other interested persons to reconsider the Department's present standards and increase the minimum ventilation requirements for shipping containers used to transport dogs and cats in commerce. The Department subsequently published a notice in the **Federal Register** requesting opinions, comments, and data from the public regarding the adequacy or inadequacy of the present ventilation requirements for shipping containers (June 12, 1979; 44 FR 33801).

In response to this request, representatives of humane groups, animal shipping container manufacturers, pet animal dealers, zoological parks, airline carriers, pet animal breeders and exhibitors, veterinarians, and members of the general public submitted comments and information. A total of 876 comments were received and 830 of these addressed the question of ventilation. These comments included the following: (1) 80 comments requested an increase in the amount of ventilation without indicating any specific amount, (2) 20 comments requested 20 percent total ventilation in shipping containers, (3) 381 comments indicated that the minimum total ventilation in shipping containers should be 25 percent during the months of April through September, (4) 4 comments indicated that at least 30 percent and up to 50 percent total ventilation should be required, (5) 70 comments voiced their satisfaction with the 3-sided ventilation provided in the animal shipping containers which are purchased from airlines, (6) 1 comment supported recommendations made by the International Air Transportation Association (IATA) that one end of the shipping container should be open and covered with bars, welded mesh or smooth expanded steel, and the other walls should be provided with no less than 3 percent ventilation of the total surface of each wall, (7) 268 comments indicated that the Department's present ventilation requirements are sufficient, (8) 2 comments specifically mentioned ventilation requirements for nonhuman primate shipping containers, and (9) 4 comments dealt with recommendations for ventilation openings in containers used to ship zoo animals.

Ventilation for Dogs and Cats

A majority of comments received favored increasing ventilation. Many specifically requested the Department to increase such ventilation in animal shipping containers to 25 percent (25 percent of the total area of the four walls) during the period April 1 through October 1. Such requests were based on empirical evidence consisting of eyewitness accounts by individuals monitoring animal shipments in airports as well as personal observations and opinions of animal owners and other individuals. Arguments were presented which criticized the Department's reason for the present ventilation standards, the average quantity of ventilation provided by commonly used commercial containers and the lack of sufficient information regarding adverse effects due to inadequate ventilation. This position was supported by such organizations as the Humane Society of the United States; the American Society for the Prevention of Cruelty to Animals; Monitor; Anti-Vivisection Society of America, Inc.; Committee for Humane Legislation, Inc.; American Humane Association; and others. In addition, three veterinarians, including the Associate Dean of the College of Veterinary Medicine, University of Illinois at Urbana-Champaign, voiced their professional opinion supporting an increase in the ventilation to 25 percent of the total wall surface of shipping containers for dogs and cats.

The Animal Welfare Act requires the humane treatment of animals. Humane treatment requires something more than mere provision for survival. Groups and individuals interested in the humane treatment of animals during transportation, including certain veterinarians, have criticized the Department for allowing animals to be shipped in containers that have 8 percent ventilation on each wall. The Department is of the opinion that many of these groups and individuals have presented valid reasons for increasing ventilation during the hot months to provide humane treatment for

transported animals. The concerned groups and individuals requested that ventilation requirements be changed to 20–25 percent and higher. The Department has information indicating that the presently available containers produced by the major manufacturers provide ventilation in the range of approximately 10 to 17 percent. Taking into consideration the possible difficulties container producers might encounter in increasing ventilation, the Department proposes that 18 percent ventilation be set as a minimum standard for containers used to transport dogs and cats during the period April 1 through September 30. This should provide manufacturers of such containers the opportunity to increase ventilation without undue difficulty.

The Department anticipates that some container manufacturers and the purchasers of the animal shipping containers with less than 18 percent ventilation may criticize the proposed increased ventilation requirement as creating a situation where such products cannot be used. However, the Department will continue to allow that shipping containers which meet the present standards for 2, 3 and 4-sided ventilation be used during the cooler months from October 1 through March 31. Thus, those containers meeting the Department's present standards for ventilation can be utilized without monetary loss to either the manufacturer or the purchaser.

Ventilation for Other Animals

With regard to warmblooded animals other than dogs and cats, few comments have been received. Therefore, the Department will not propose changes regarding the transportation of such other animals at this time.

Accordingly, Part 3 of Title 9 would be amended in the following respect:

PART 3—STANDARDS

In § 3.12(a), paragraph (4) would be amended by revising the proviso as follows:

§ 3.12 Primary enclosures used to transport live dogs and cats.

* * * * *

a. * * *

(4) * * * *Provided, however,* That during the period April 1 through September 30, ventilation openings shall be provided on either two, three, or four sides of the primary enclosure and shall be at least 18 percent of the total surface area of the four walls: *And provided further,* That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure;

* * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 703, Hyattsville, MD 20782, during regular hours of business (8:00 a.m. to 4:30 p.m. Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register**.

In order for these proposed amendments to be of maximum benefit, it is necessary that these proposals become effective as final rulemaking before the onset of the summer season. Therefore, it is hereby found that the customary comment period of 60 days be waived and that all comments must be received on or before April 25, 1980.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available by writing to the Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Done at Washington, D.C., this 6th day of March, 1980.

R. I. Brown,

Acting Deputy Administrator, Veterinary Services.

FR Doc. 80-7421 Filed 3-10-80; 8:45 am]

BILLING CODE 3410-34-M